

AMENDED IN SENATE SEPTEMBER 8, 1997

AMENDED IN SENATE AUGUST 25, 1997

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AMENDED IN ASSEMBLY MAY 27, 1997

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AMENDED IN ASSEMBLY APRIL 1, 1997

CALIFORNIA LEGISLATURE—1997–98 REGULAR SESSION

ASSEMBLY BILL

No. 1029

Introduced by Assembly Member Frusetta

February 27, 1997

An act to amend ~~Sections 27315 and~~ *Section* 27803 of, and to add Sections 21714, 27315.1, and 27368 to, the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

AB 1029, as amended, Frusetta. Vehicles: safety belts: motorcycles: helmets: exemption: traffic lanes.

(1) Existing law prohibits certain vehicles from being operated on traffic lanes that have been designated exclusive or preferential use lane for high-occupancy vehicles.

Existing law requires that a vehicle be driven entirely within a single lane whenever any roadway has been divided into 2 or more clearly marked lanes for traffic in one direction, except as specified.

This bill would specify that these provisions of existing law apply to a fully enclosed 3-wheeled motor vehicle of specified dimensions, thereby imposing a state-mandated local program by creating a new crime with regard to preferential use lanes.

(2) Existing law defines a motorcycle, for purposes of the Vehicle Code, as any motor vehicle having a seat or saddle for the use of the rider, designed to travel on not more than 3 wheels in contact with the ground, and weighing less than 1,500 pounds.

Existing law requires a driver and any passenger to wear a safety helmet that meets specified standards when riding on, among other things, a motorcycle.

This bill would exempt a person operating, or riding as a passenger in, a fully enclosed 3-wheeled motor vehicle of specified dimensions that meets prescribed requirements from the safety helmet requirement specified above.

(3) Existing law makes it an infraction for any person to operate a private passenger motor vehicle, as defined, on the highway without having that person and all passengers 16 years of age or over restrained by a safety belt. It is unlawful for any parent or legal guardian, when present in a private passenger motor vehicle to permit his or her child or ward who is between 4 years and 16 years of age to be transported on the highway in the vehicle without using a safety belt.

Existing law makes it unlawful for any parent or legal guardian, when present in a private passenger motor vehicle to permit his or her child or ward who is less than 4 years of age to be transported on the highway in the vehicle without using a specified child passenger restraint system.

This bill would make those provisions applicable to drivers and passengers in a fully enclosed 3-wheeled motor vehicle of specified dimensions. Because the bill would thereby expand the scope of existing crimes, it would impose a state-mandated local program.

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.



This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

SECTION 1. Section 21714 is added to the Vehicle Code, to read:

21714. The driver of a vehicle described in subdivision (f) of Section 27803 shall not do either of the following:

(a) Operate the vehicle in any lane established under Section 21655.5 as an exclusive or preferential use lane for high-occupancy vehicles.

(b) Operate the vehicle in either of the following:

(1) The area on, or immediately adjacent to, the striping or other markers designating adjacent traffic lanes.

(2) The area between two or more vehicles that are traveling in adjacent traffic lanes.

~~SEC. 2. Section 27315 of the Vehicle Code is amended to read:~~

~~27315. (a) The Legislature finds that a mandatory seatbelt law will contribute to reducing highway deaths and injuries by encouraging greater usage of existing manual seatbelts, that automatic crash protection systems which require no action by vehicle occupants offer the best hope of reducing deaths and injuries, and that encouraging the use of manual safety belts is only a partial remedy for addressing this major cause of death and injury. The Legislature declares that the enactment of this section is intended to be compatible with support for federal safety standards requiring automatic crash protection systems and should not be used in any manner to rescind federal requirements for installation of automatic restraints in new cars.~~

~~(b) This section shall be known and may be cited as the Private Passenger Motor Vehicle Safety Act.~~

~~(c) As used in this section, "private passenger motor vehicle" means any passenger vehicle and any~~

1 ~~motortruck of less than 6,001 pounds unladen weight, but~~
2 ~~“private passenger motor vehicle” does not include a~~
3 ~~motoreycle.~~

4 ~~(d) (1) No person shall operate a private passenger~~
5 ~~motor vehicle on a highway unless that person and all~~
6 ~~passengers 16 years of age or over are properly restrained~~
7 ~~by a safety belt. This paragraph does not apply to the~~
8 ~~operator of a taxicab, as defined in Section 27908, when~~
9 ~~the taxicab is driven on a city street. The safety belt~~
10 ~~requirement established by this paragraph is the~~
11 ~~minimum safety standard applicable to employees being~~
12 ~~transported in a private passenger motor vehicle. This~~
13 ~~paragraph does not preempt any more stringent or~~
14 ~~restrictive standards imposed by the Labor Code or any~~
15 ~~other state or federal regulation regarding the~~
16 ~~transportation of employees in a private passenger motor~~
17 ~~vehicle.~~

18 ~~(2) The operator of a limousine for hire or the operator~~
19 ~~of an authorized emergency vehicle, as defined in~~
20 ~~subdivision (a) of Section 165, shall not operate the~~
21 ~~limousine for hire or authorized emergency vehicle~~
22 ~~unless the operator and any passengers four years of age~~
23 ~~or over and weighing 40 pounds or more, in the front seat~~
24 ~~are properly restrained by a safety belt.~~

25 ~~(3) The operator of a taxicab shall not operate the~~
26 ~~taxicab unless any passengers four years of age or over and~~
27 ~~weighing 40 pounds or more, in the front seat are~~
28 ~~properly restrained by a safety belt.~~

29 ~~(e) No person 16 years of age or over shall be a~~
30 ~~passenger in a private passenger motor vehicle on a~~
31 ~~highway unless that person is properly restrained by a~~
32 ~~safety belt.~~

33 ~~(f) Every owner of a private passenger motor vehicle,~~
34 ~~including every owner or operator of a taxicab, as defined~~
35 ~~in Section 27908, or a limousine for hire, operated on a~~
36 ~~highway shall maintain safety belts in good working order~~
37 ~~for the use of occupants of the vehicle. The safety belts~~
38 ~~shall conform to motor vehicle safety standards~~
39 ~~established by the United States Department of~~
40 ~~Transportation. This subdivision does not, however,~~

1 ~~require installation or maintenance of safety belts where~~
2 ~~not required by the laws of the United States applicable~~
3 ~~to the vehicle at the time of its initial sale.~~

4 ~~(g) This section does not apply to a passenger or~~
5 ~~operator with a physically disabling condition or medical~~
6 ~~condition which would prevent appropriate restraint in~~
7 ~~a safety belt, if the condition is duly certified by a licensed~~
8 ~~physician and surgeon or by a licensed chiropractor who~~
9 ~~shall state the nature of the condition, as well as the reason~~
10 ~~the restraint is inappropriate. This section also does not~~
11 ~~apply to a public employee, when in an authorized~~
12 ~~emergency vehicle as defined in paragraph (1) of~~
13 ~~subdivision (b) of Section 165, or to any passenger in any~~
14 ~~seat behind the front seat of an authorized emergency~~
15 ~~vehicle as defined in paragraph (1) of subdivision (b) of~~
16 ~~Section 165 operated by the public employee, unless~~
17 ~~required by the agency employing the public employee.~~

18 ~~(h) Notwithstanding subdivision (a) of Section 42001,~~
19 ~~any violation of subdivision (d), (e), or (f) is an infraction~~
20 ~~punishable by a fine, including all penalty assessments~~
21 ~~and court costs imposed on the convicted person, of not~~
22 ~~more than twenty dollars (\$20) for a first offense, and a~~
23 ~~fine, including all penalty assessments and court costs~~
24 ~~imposed on the convicted person, of not more than fifty~~
25 ~~dollars (\$50) for each subsequent offense. In lieu of the~~
26 ~~fine and any penalty assessment or court costs, the court,~~
27 ~~pursuant to Section 42005, may order that a person~~
28 ~~convicted of a first offense attend a school for traffic~~
29 ~~violators or a driving school in which the proper use of~~
30 ~~safety belts is demonstrated.~~

31 ~~(i) For any violation of subdivision (d), (e), or (f), in~~
32 ~~addition to the fines provided for pursuant to subdivision~~
33 ~~(h) and the penalty assessments provided for pursuant to~~
34 ~~Section 1464 of the Penal Code, an additional penalty~~
35 ~~assessment of two dollars (\$2) shall be levied for any first~~
36 ~~offense, and an additional penalty assessment of five~~
37 ~~dollars (\$5) shall be levied for any subsequent offense.~~

38 ~~All moneys collected pursuant to this subdivision shall~~
39 ~~be utilized in accordance with Section 1464 of the Penal~~
40 ~~Code.~~

~~(j) In any civil action, a violation of subdivision (d), (e), or (f) or information of a violation of subdivision (h) shall not establish negligence as a matter of law or negligence per se for comparative fault purposes, but negligence may be proven as a fact without regard to the violation.~~

~~(k) If the United States Secretary of Transportation fails to adopt safety standards for manual safety belt systems by September 1, 1989, no private passenger motor vehicle manufactured after that date for sale or sold in this state shall be registered unless it contains a manual safety belt system which meets the performance standards applicable to automatic crash protection devices adopted by the Secretary of Transportation pursuant to Federal Motor Vehicle Safety Standard No. 208 (49 C.F.R. 571.208) as in effect on January 1, 1985.~~

~~(l) Each private passenger motor vehicle offered for original sale in this state which has been manufactured on or after September 1, 1989, shall comply with the automatic restraint requirements of Section S4.1.2.1 of Federal Motor Vehicle Safety Standard No. 208 (49 C.F.R. 571.208), as published in Volume 49 of the Federal Register, No. 138, page 29009. Any automobile manufacturer who sells or delivers a private passenger motor vehicle subject to the requirements of this subdivision, and fails to comply with this subdivision, shall be punished by a fine of not more than five hundred dollars (\$500) for each sale or delivery of a noncomplying private passenger motor vehicle.~~

~~(m) Compliance with subdivision (k) or (l) by a manufacturer shall be made by self-certification in the same manner as self-certification is accomplished under federal law.~~

~~(n) This section does not apply to a person actually engaged in delivery of newspapers to customers along the person's route if the person is properly restrained by a safety belt prior to commencing and subsequent to completing delivery on the route.~~

~~(o) This section does not apply to a person actually engaged in collection and delivery activities as a rural~~

1 ~~delivery carrier for the United States Postal Service if the~~
2 ~~person is properly restrained by a safety belt prior to~~
3 ~~stopping at the first box and subsequent to stopping at the~~
4 ~~last box on the route.~~

5 ~~(p) This section applies to any person in a fully~~
6 ~~enclosed three-wheeled motor vehicle that is not less~~
7 ~~than seven feet in length and not less than four feet in~~
8 ~~width, and has an unladen weight of 900 pounds or more.~~

9 ~~(q) Subdivisions (d), (e), (f), (g), and (h) shall~~
10 ~~become inoperative immediately upon the date that the~~
11 ~~United States Secretary of Transportation, or his or her~~
12 ~~delegate, determines to rescind the portion of the~~
13 ~~Federal Motor Vehicle Safety Standard No. 208 (49 C.F.R.~~
14 ~~571.208) which requires the installation of automatic~~
15 ~~restraints in new private passenger motor vehicles,~~
16 ~~except that those subdivisions shall not become~~
17 ~~inoperative if the secretary's decision to rescind that~~
18 ~~Standard No. 208 is not based, in any respect, on the~~
19 ~~enactment or continued operation of those subdivisions.~~

20
21 *SEC. 2. Section 27315.1 is added to the Vehicle Code,*
22 *to read:*

23 *27315.1. Section 27315 applies to any person in a fully*
24 *enclosed three-wheeled motor vehicle that is not less*
25 *than seven feet in length and not less than four feet in*
26 *width, and has an unladen weight of 900 pounds or more.*

27 *SEC. 3. Section 27368 is added to the Vehicle Code, to*
28 *read:*

29 *27368. This article applies to child passengers in a fully*
30 *enclosed three-wheeled motor vehicle that is not less*
31 *than seven feet in length and not less than four feet in*
32 *width, and has an unladen weight of 900 pounds or more.*

33 *SEC. 4. Section 27803 of the Vehicle Code is amended*
34 *to read:*

35 *27803. (a) A driver and any passenger shall wear a*
36 *safety helmet meeting requirements established*
37 *pursuant to Section 27802 when riding on a motorcycle,*
38 *motor-driven cycle, or motorized bicycle.*

39 *(b) It is unlawful to operate a motorcycle,*
40 *motor-driven cycle, or motorized bicycle if the driver or*

1 any passenger is not wearing a safety helmet as required
2 by subdivision (a).

3 (c) It is unlawful to ride as a passenger on a
4 motorcycle, motor-driven cycles, or motorized bicycle if
5 the driver or any passenger is not wearing a safety helmet
6 as required by subdivision (a).

7 (d) This section applies to persons who are riding on
8 motorcycles, motor-driven cycles, or motorized bicycles
9 operated on the highways.

10 (e) For the purposes of this section, “wear a safety
11 helmet” or “wearing a safety helmet” means having a
12 safety helmet meeting the requirements of Section 27802
13 on the person’s head that is fastened with the helmet
14 straps and that is of a size that fits the wearing person’s
15 head securely without excessive lateral or vertical
16 movement.

17 (f) This section does not apply to a person operating,
18 or riding as a passenger in, a fully enclosed three-wheeled
19 motor vehicle that is not less than seven feet in length and
20 not less than four feet in width, and has an unladen weight
21 of 900 pounds or more, if the vehicle meets or exceeds all
22 of the requirements of this code, the Federal Motor
23 Vehicle Safety Standards, and the rules and regulations
24 adopted by the United States Department of
25 Transportation and the National Highway Traffic Safety
26 Administration.

27 (g) In enacting this section, it is the intent of the
28 Legislature to ensure that all persons are provided with
29 an additional safety benefit while operating or riding a
30 motorcycle, motor-driven cycle, or motorized bicycle.

31 SEC. 5. No reimbursement is required by this act
32 pursuant to Section 6 of Article XIII B of the California
33 Constitution because the only costs that may be incurred
34 by a local agency or school district will be incurred
35 because this act creates a new crime or infraction,
36 eliminates a crime or infraction, or changes the penalty
37 for a crime or infraction, within the meaning of Section
38 17556 of the Government Code, or changes the definition
39 of a crime within the meaning of Section 6 of Article
40 XIII B of the California Constitution.

1 Notwithstanding Section 17580 of the Government
2 Code, unless otherwise specified, the provisions of this act
3 shall become operative on the same date that the act
4 takes effect pursuant to the California Constitution.

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